

MINUTES

MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN MIKE COONEY**, on February 2, 2005 at 5:00 P.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Mike Cooney, Chairman (D)
Sen. Gregory D. Barkus (R)
Sen. John Brueggeman (R)
Sen. John Esp (R)
Sen. Steven Gallus (D)
Sen. Ken (Kim) Hansen (D)
Sen. Bob Hawks (D)
Sen. Rick Laible (R)
Sen. Lane L. Larson (D)
Sen. Greg Lind (D)
Sen. Dan Weinberg (D)
Sen. John Cobb (R)

Members Excused:

Sen. Keith Bales (R)
Sen. Bob Keenan (R)
Sen. Don Ryan (D)
Sen. Trudi Schmidt (D)
Sen. Corey Stapleton (R)
Sen. Jon Tester (D)
Sen. Carol Williams (D)

Members Absent: None.

Staff Present: Prudence Gildroy, Committee Secretary
Taryn Purdy, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 126, 1/26/2005; SB 247,
1/26/2005
Executive Action: None.

{Tape: 1; Side: A; Approx. Time Counter: 1.6}

HEARING ON SB 126

Opening Statement by Sponsor:

SEN. JOHN BRUEGGEMAN (R), SD 6, Polson, opened the hearing on **SB 126**, Revise boating registration laws. The bill was previously heard in the **Fish and Game Committee** and on the Senate floor. It was referred to the committee because there was a fiscal impact. The bill would require the owner of a motorboat, sailboat, or personal water craft to obtain validation decals at not cost. This would enable the Fish, Wildlife and Parks Department and the Federal Government to track the number and type of boats in the state of Montana and maintain compliance with federal law. The department had an amendment to require the department to pay for the initial programming costs and that was the fiscal impact.

Proponents' Testimony:

Jim Kropp, Fish Wildlife and Parks, testified the amendment would allow FWP to pay the Department of Justice for initial programming costs.

[EXHIBIT\(fcs26a01\)](#)

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. RICK LAIBLE asked **Mr. Kropp** about the \$73,000 in federal special revenue and if that was money the state would potentially lose. **Mr. Kropp** indicated that was correct. It was money that comes from the Coast Guard to the state.

CHAIRMAN COONEY asked **SEN. BRUEGGEMAN** to explain the amendment. **SEN. BRUEGGEMAN** advised the Department of Fish, Wildlife and Parks would reimburse the Department of Justice for any actual programming costs incurred during FY 2005 for the implementation of issuing the validation decal. **CHAIRMAN COONEY** asked if they adopt the amendment if the concern over the state special revenue would just go away and **SEN. BRUEGGEMAN** indicated yes.

SEN. GREG BARKUS asked if there was a penalty clause in the bill. **Ron Jendro, Boating Law Administrator**, said on page 3 of the bill it is prohibited to operate a boat without these validation

decals. The penalty for failure to display a decal would be the same as not having a fee in lieu of tax. **SEN. BARKUS** asked what the penalties were. **Mr. Jendro** indicated the penalty would be \$85 for failure to display a decal. **SEN. BARKUS** said they were creating a violation potential for Montana boaters just to comply with federal requirements. **Mr. Jendro** said that was correct; noncompliance would be subject to the penalty.

SEN. GREG LIND advised he was not a big fan of boat decals and asked if there was a discussion for a nominal fee to make this self supporting. **SEN. BRUEGGEMAN** asserted the dollar amount for the programming would come out of state special revenue. The intention was that it be free to the public. They did not want to violate the trust that was established last session; once a boat is registered, it is permanently registered. To maintain federal compliance, the department was willing to offer these at no charge. He said he was amenable to an amendment for no penalty unless that violates federal statutes. He felt discussion was needed. **SEN. LIND** asked if a canoe that was paddled was included or not. **Mr. Jendro** advised the decal was for motorized boats only.

Closing by Sponsor:

SEN. BRUEGGEMAN closed on the bill. He thought discussion was needed to remedy the concern of **SEN. BARKUS** before taking action on the bill.

{Tape: 1; Side: A; Approx. Time Counter: 13.1 - 30.6}

HEARING ON SB 247

Opening Statement by Sponsor:

SEN. JOHN BRUEGGEMAN (R), SD 6, Polson, opened the hearing on **SB 247**, Increase amount of unexpended appropriation retained by agency. Currently, at the end of the fiscal year, agencies are allowed to retain 30% of the unexpended amount of money remaining in their budget and the rest is reverted to the general fund. The bill would increase that amount to 50%. The genesis of the idea was, to some extent, the book *The Price of Government* by David Osborne. He believed the bill would encourage managers to save money and he thought more agencies would take advantage of this if there was an incentive to save money. Although there was a fiscal impact of \$700,000 over the next biennium, he thought the bill would save money in the long run and could improve reversions to the general fund. He was amenable to a delayed effective date beginning after the current biennium.

Proponents' Testimony:

Skip Culver, Department of Justice, testified in support of the bill. He thought it was a good management bill and would allow flexibility to use the carryover funds for unanticipated events.

Opponents' Testimony: None.

Informational Testimony:

Amy Sassano, Office of Budget and Program Planning, advised the bill would expand the opportunity for state agencies to carry forward administrative reversions in future fiscal years. Current law, which allows agencies to carry forward 30% of administrative reversions for one fiscal year into the succeeding two fiscal years, works well and provides agencies with flexibility to address unanticipated situations or other situations or needs within the scope of the goals and objectives of the agency. The budget office was concerned about the potential immediate fiscal impact of the bill and it was unknown what impact the legislation would have in the future to encourage agencies to control costs in anticipation of a larger carry forward eligibility amount. The budget office took no position on the bill but they believed the existing statute provides sufficient flexibility to state agencies and encourages good money management.

Questions from Committee Members and Responses:

SEN. DAN WEINBERG thought this was an intriguing idea but expressed some concern. He said those legislators dealing with the Department of Public Health and Human Services have been struggling with trying to find out if the department is really doing those things which the Legislature empowered them to do. In some cases, they have found the department has money sitting there from a past year or years and that they haven't done the work that the Legislature and the committee asked them to do. His fear was this bill would encourage that behavior. He said they don't want to lose sight of serving people and thought this might get in the way. **SEN. BRUEGGEMAN** acknowledged that was a very good point. Agencies have a statutory requirement and also the requirements set out in the budget in HB 2. He thought it was important to set up priorities for agencies and to look at the performance audits to make sure agencies were complying with the law. He hoped this would not encourage agencies to neglect their statutory obligation. Audit reports would identify that and the Legislature could take corrective action. This was a chance for agencies to be good stewards of the public money. He reiterated he would be willing to delay the effective date.

SEN. BARKUS asked how long the 30% rule had been in effect. **SEN. BRUEGGEMAN** thought the original reversion number was put in place by **SEN. JOHN COBB**. **Ms. Sassano** advised she had information on specific agencies. She thought **SEN. DAVE LEWIS** was the budget director at the time this law was imposed. **SEN. BARKUS** thought **SEN. WEINBERG** had raised a good point. They sat in on a pre-session meeting with someone who gets funds and annually they had over \$200,000 they were not spending. With those funds they were able to buy a group home. He said legislators represent both taxpayers and constituents who receive the services of government. It disturbed him that an agency has the flexibility to legislate from the checkbook. **SEN. BRUEGGEMAN** said he understood the concern. By law an agency has to live up to their statutory responsibility. He could not say this bill would encourage them to break the law. That may be the unintended consequence to some extent but he could not see that happening. The legislature has to make efforts to ensure compliance, such as requesting legislative audits.

SEN. BOB HAWKS asked **SEN. BRUEGGEMAN** about the book he referred to. **SEN. BRUEGGEMAN** advised this was not the sole genesis of the idea. He said he discussed the idea with **SEN. COBB** and the effect that increasing inversions have on the long-term budget. The book he referred to, *The Price of Government*, was written by David Osborne and Peter Hutchinson. Osborne was also the author of *Reinventing Government*. With a base budget, if agencies do not spend all the money they can in the base year, then it doesn't go into the base for the next year.

{Tape: 1; Side: B}

He thought a fifty-fifty split was more fair.

SEN. LIND noted he and **SEN. WEINBERG** served on the **Public Health and Human Services Subcommittee** and asked if matching funds were an issue. **Ms. Sassano** advised agencies that receive federal funds rarely use those federal funds for carry forward because there is generally not cash behind the carry forward authority. The Department of Transportation was an exception. The Department of Public Health and Human Services also gets the majority of federal funds and they only applied for carry forward one time and that was in this past fiscal year. She didn't think it had been an issue for them.

Taryn Purdy, Legislative Fiscal Division, advised if an agency gets carry forward authority, that does not go into the base the next time. Anything they spend in carry forward does not build the base in any way in future years.

SEN. LAIBLE asked if it isn't picked up in present law adjustments. **Ms. Purdy** replied if an agency spent something on carry forward they would have to come to the Legislature specifically and ask to add that money to the budget the next time. If they spent carry forward money in the base of 2004, that money is taken out before the Legislators even see the base. It is not included in the base or in the statewide present law adjustments. They could come in and ask for it specifically.

Closing by Sponsor:

SEN. BRUEGGEMAN recalled when agencies were allowed to book a liability at the end of the year to buy major equipment just to make sure the money got spent. Agencies were never encouraged to save money. He wanted to research states that had larger reversion amounts to see what their experience has been. In the long run, he thought there would be better reversions.

ADJOURNMENT

Adjournment: 5:45 P.M.

SEN. MIKE COONEY, Chairman

PRUDENCE GILDROY, Secretary

MC/pg

Additional Exhibits:

EXHIBIT ([fcs26aad0.PDF](#))